

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 9712 of 1995****For Approval and Signature:****HONOURABLE MR.JUSTICE SHARAD D.DAVE**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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DILIPKUMAR GOPALDAS BAVADIA - Petitioner(s)
Versus
STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :

MR PH PATHAK for Petitioner(s) : 1,
Ms.Rita Chandarana, AGP for Respondent(s) : 1 - 4.
MR HS MUNSHAW for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE**Date : 25/10/2005****CAV JUDGMENT**

1.By filing this petition, the petitioner has prayed to issue appropriate writ, order or direction directing the respondents to confirm the petitioner in permanent post of peon at the office of respondent no.4 office

along with all the benefits from the date of joining the office i.e., 11.10.1985 and also to direct the respondents to put the petitioner in the permanent pay scale with all other benefits. By way of interim relief, further prayer is made to direct the respondents not to effect the recovery of Rs.15,962/- from the petitioner's salary.

2.It is submitted by the learned advocate appearing for the petitioner that the petitioner has joined the services on and from 11.10.1985 and since the petitioner is working as peon without any break and, therefore, the petitioner is entitled to the benefits of the Government Resolution dated 17.10.1988. He submitted that in view of the Government Resolution dated 17.10.1988, the petitioner is entitled to all the benefits including the permanency to the post.

3.On the other-hand, it is submitted by the learned advocates appearing for the respondents that the resolution dated 17.10.1988 was made applicable to the daily wagers who are working for maintenance and repairs of construction in various departments of the Government and, therefore, the same benefits should not be extended to the petitioner herein also.

4.It is also brought to the notice of this Court that the

issue involved in this petition has been decided by Full Bench of this court in the case of Gujarat Forest Producers, Gatherers and Forests Workers Union V/s State of Gujarat, reported in 2004(2) GLH 302. In the said decision, this Court has held that the Government Resolution dated 17.10.1988 is applicable to the daily wagers of the Forest and Environment Department engaged in the work of maintenance and repairs of constructions in that department and not to the daily wagers engaged in any other types of work in that department.

5. In the present case, as submitted by the learned AGP that the petitioner is not working as a daily wager engaged in the work of maintenance and repairs of construction. Since the Government Resolution dated 17.10.1988 is not applicable to the case of the petitioner, the grievance raised by the petitioner in this petition cannot be entertained.

6. Under the circumstances, I do not find any substance in this petition and therefore, the same deserves to be dismissed. Accordingly, this petition is dismissed. Rule is discharged. Interim relief granted earlier stands vacated.

(SHARAD D DAVE, J)

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